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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/676,490

10/01/2003

John R. Bestermann

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ARRIS INTERNATIONAL, INC  
3871 LAKEFIELD DRIVE  
SUWANEE, GA 30024

EXAMINER
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VO, NGUYEN THANH

ART UNIT	PAPER NUMBER
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2618

MAIL DATE	DELIVERY MODE
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11/06/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/676,490

Applicant(s)

BESTERMANN, JOHN R.

Examiner

Nguyen Vo

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 1 and 13-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-12 and 24-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 2-4, 7-10, 24, 27-28, 30-32, 35, 38-39, 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Hrastar (US 6,272,150 B1, cited by examiner).

As to claim 2, Hrastar discloses a method for remotely monitoring the performance of a portion of an RF network (see column 3 lines 30-42; column 6 lines 7-12), comprising compiling a table of information related to a plurality of user devices connected to the network, said table configured for associating multiple samples of network performance data (see figures 17-18), wherein each of the samples corresponds to one of the user devices, with an identifier of the user device to which each said sample of performance data corresponds (see "sampling" at column 20 lines 51-67); requesting performance data corresponding to at least one of the user devices, the request being entered at a location remote from said at least one of the user devices for which performance data is being requested (see column 18 line 62 to column 19 line 67); collecting samples of performance data at each of the user devices for which performance data has been requested (see column 18 line 62 to column 19 line 67); assembling the collected samples of performance data at each of the user devices for which performance data has been requested into a data packet or packets (see column

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4 lines 48-65; column 18 line 62 to column 19 line 67); sending the data packet or packets containing performance data from the at least one of the plurality of user devices to the remote location in response to the request for performance data (see column 4 lines 48-65; column 18 line 62 to column 19 line 67); receiving the packet or packets of data at the remote location from which the performance data was requested (see column 18 line 62 to column 19 line 67); mapping the received packet or packets of data into the table (see "mapping" at column 3 lines 30-41; column 4 lines 25-26; figures 13-18); generating a report based on the samples of performance data received in the data packets (see figures 17-19; column 17 lines 41-45; column 20 lines 51-59; columns 21-22); and presenting the results of the report with a user interface (see figures 17-19; column 17 lines 41-45; column 20 lines 51-59; columns 21-22).

As to claim 3, see column 20 lines 51-67; column 22 lines 25-65.

As to claims 4, 31, see column 3 lines 38-42; column 22 lines 52-65.

As to claims 7, 27, 38, see column 17 lines 41-45; column 18 lines 62-67.

As to claims 8, 28, 39, see telephone line 131 in figure 1.

As to claims 9, 30, 41, see column 4 lines 48-65.

As to claims 10, 32, see column 17 lines 41-45.

As to independent claims 24, 35, they are rejected for similar reasons as set forth in claim 2 above.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5-6, 12, 25-26, 34, 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hrastar in view of Terreault (US 2002/0064233 A1, cited by examiner).

As to claims 5-6, 12, 25-26, 34, 36-37, Hrastar fails to disclose a QAM modulation scheme as in claims 5, 25, 36, and 256QAM as in claims 6, 26, 37, and plotter as in claims 12, 34. However, Terreault discloses that the performance data is IQ data corresponding to symbol data in a QAM modulation scheme such as 256QAM (see paragraphs 0002, 0011-0014, 0087, 0094). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the above teachings of Terreault to Hrastar, in order to provide accurate performance results to the users (as suggested by Terreault at paragraphs 0010-0014).

5. Claims 11, 29, 33, 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hrastar.

As to claims 11, 33, Hrastar fails to disclose that the report is displayed using a printer. The examiner, however, takes Official Notice that displaying a report using a printer is known in the art (for example, as admitted by applicant on page 10 line 25 to page 11 line 4). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hrastar such as the report is displayed using a printer, in order to provide a hard copy of the report to the user.

As to claims 29, 40, Hrastar fails to disclose that the request for performance data is placed using a PDA as claimed. The examiner, however, takes Official Notice that generating such a request using a PDA is known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hrastar such as the request for performance data is generated using a PDA, in order to provide more convenience in using to the users.

### ***Response to Arguments***

6. Applicant's arguments filed 8/30/2007 have been fully considered but they are not persuasive.

#### **Rejection of Claims 2, 5-8 and 17:**

Regarding claim 2, applicant argues Hrastar fails to disclose that the performance data corresponds to QAM samples, and that the samples of QAM data are combined into a plot and then transmitted to a remote location. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the performance data corresponds to QAM samples; the samples of QAM data are combined into a plot and then transmitted to a remote location) are not recited in the rejected claim(s).

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Regarding claims 3-4, 7-10, 27-28, 30-32, 38-39 and 41, they are discussed for similar reasons as set forth in claim 2 above.

**Rejection of Claims 5-6, 11-12, 25-26, 29, 33-34, 36-37, 40:**

First of all, the examiner's comments with respect to claim 2 as set forth above is herein incorporated.

Regarding claims 5, 25, and 36, the examiner in this action cites Terreault (US 2002/0064233 A1) to support his Office Notice taken in the previous action.

For the foregoing reasons, the examiner contends that the rejections to claims are proper.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nguyen Vo whose telephone number is (571) 272-7901. The examiner can normally be reached on M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nguyen Vo  
Primary Examiner  
Art Unit 2618

*Nguyen Vo*  
11-4-07